

June 30, 2005

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, July 7, 2005
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

- ITEM 1: Request to create Election of Personnel Policy Board Members by Classified Employees Personnel Policy Bulletin.
- ITEM 2: Request to revise Procedures for Conduct of Hearings Before the Board.
- ITEM 3: Request for appeal hearing – Steve Foree — Corrections.
- ITEM 4: Miscellaneous Discussion.

pc: Steve Foree
Kile Johnson

Personnel Policy Bulletin

Lancaster County

Number: 2005-1

Date: July, 2005

Reference:	Title:
Lancaster County Rules Appendix A, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum.	Election of Personnel Policy Board Members by Classified Employees

(1) Definitions:

Classified employees who comprise all positions not specifically included in the unclassified service.

Personnel Policy Board Members are persons in sympathy with the application of merit principles to public employment and who are not otherwise employed by the County. No member shall hold during his or her term, or shall have held for a period of one year prior thereto, any political office or a position as officer or employee of a political organization.

Term of appointment: Each member shall be appointed in the same manner for a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed in the same manner for the remainder of the term. Each member of the board shall hold office until his or her successor is appointed and qualified.

(2) Nomination Procedure

- a) The President or Chairperson of the bargaining units for classified employees and the Employee Advisory Team will be notified when a vacancy exists of a Personnel Policy Board position which would be appointed by the classified employees. These individuals will meet and submit, in writing, names to the Personnel Director to be placed onto the official ballot by a pre-established deadline. Before a name is placed on a ballot, the individual to be nominated should be contacted by the nominator to insure they are interested and willing to accept the appointment, if elected.
- b) The Personnel Director will establish an official ballot, placing on that ballot the names submitted by the predetermined deadline, with a brief description of the candidate's qualifications. A deadline for voting will be noted. The Lancaster County Election Commissioner or his designee will initial each official ballot. Ballots submitted which do not bear such initials, or appear to be photocopied, will not be counted.

(3) Election Procedure

- a) The Lancaster County Election Commissioner will oversee the election process and certify the results of the election. A majority of votes received will constitute the winner.

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- b) Each classified employee will receive a ballot. The Personnel Department will generate labels to be used to send the ballot to employees via interoffice mail.
- c) Each ballot will have a deadline date and time. All ballots received after the deadline will not be counted. The voting process will be completed within a two-week period.
- d) Each ballot will be sent out with a return interoffice envelope that is addressed to the Lancaster County Election Commissioner. Where possible, the ballots will be sent and returned via interoffice mail.
- e) The cost of supplies to conduct the election will be paid by the Lancaster County Board of Commissioners.
- f) Upon receiving certified election results from the Lancaster County Election Commissioner, the Personnel Director will publish the results to the individuals on the ballot, to the President of the classified unions and the Chair of the Employee Advisory Team, the Lancaster County Board of Commissioners, and Lancaster County Department Heads. Thirty (30) days following a certified election, the ballots will be destroyed.
- g) The effective date of the appointment will be the first Personnel Policy Board Meeting following the expiration of the term of office; or the first Personnel Policy Board Meeting following the election if the term has already expired or in the event of a resignation.
- h) A sample ballot is attached for reference.

Don Taute, Personnel Director

Date

Larry Hudkins, Chair
Board of County Commissioners

Date

**LANCASTER COUNTY
SAMPLE PERSONNEL POLICY BOARD BALLOT**

The Lancaster County Personnel Policy Board is a six member board that reviews employee grievances and disciplinary appeals, and recommends personnel rule changes and amendments to the Personnel Department and County Board. Pursuant to state law, classified employees appoint two members to the Personnel Policy Board to serve five-year terms. One of these terms has expired and the County Board has agreed to sponsor a county-wide election to give all classified employees the opportunity to vote for the appointment.

Listed below are two individuals that have been nominated by AFSCME, Local 2468, FOP, Lodge 32, and the Employee Advisory Team. You may vote for **one** of the individuals listed below by placing an “**X**” on the line beside the person for which you wish to vote. Please use the enclosed addressed envelope to mail your ballot to the Election Commissioner’s Office. The ballot may be mailed through the County inter-office mail.

Do not copy this ballot. Only an original of this ballot will be considered valid. All ballots must be received by the Election Commissioner no later than the close of business Friday, Date

_____	Name #1 – Brief description of qualifications
_____	Name #2 – Brief description of qualifications

Election Commissioner Certification of Authenticity _____

LANCASTER COUNTY NEBRASKA
PERSONNEL POLICY BOARD

Procedures for Conduct of Hearings Relative to Employee
Grievances or Appeals Before the Board

All hearings shall be conducted in accordance with the provisions of Rule 4.68 of the Personnel Rules of Lancaster County.

The Personnel Board shall not be bound by the strict rules of evidence and shall have the authority to control the procedures of the hearing, including the admission or exclusion of testimony or other evidence. All hearings shall be conducted by the ~~Chairman~~ or, in the absence of the ~~chairman~~, by another member of the Board.

Hearings shall be conducted in a manner that comports with the requirements of due process, but to the extent possible within such context hearings shall be informal, so as to de-emphasize the adversarial nature of the action and enable the Board to pursue its intent to conduct an inquiry into the facts.

Prior to the scheduled beginning of the board, the initiating party and the respondent shall make every attempt to offer joint exhibits to avoid delays at the time of the hearing.

Prior to the hearing, the parties shall identify in writing the individual or individuals who will represent them at the hearing. In addition, the parties shall provide the Board with a written list of the persons expected to be called as witnesses at the hearing.

Copies of all exhibits must be provided by each party for each Personnel Board member in attendance. Exhibits will be marked by a court reporter at the meeting. All costs associated with copies of exhibits shall be borne by the responsible party.

The customary order of proceedings is as follows for a grievance:

- ~~1. Opening statement by initiating party~~
- ~~2. Opening statement by respondent.~~
- ~~3. Presentation of evidence, witnesses and arguments by initiating party.~~
- ~~4. Cross-examination by respondent.~~
- ~~5. Presentation of evidence, witnesses and arguments by respondent.~~
- ~~6. Cross-examination by initiating party.~~
- ~~7. Rebuttal evidence, if necessary, by initiating party.~~
- ~~8. Rebuttal evidence, if necessary, by respondent.~~
- ~~9. Summation by initiating party.~~
- ~~10. Summation by respondent.~~

1. Opening statement by the initiating party, followed by a similar statement by the respondent.
2. Presentation of evidence, witnesses* and arguments by the initiating party.
3. Cross-examination by the respondent.
4. Presentation of evidence, witnesses* and arguments by the responding party.
5. Cross-examination by the initiating party.
6. Summation by both parties, usually following the same order as in the opening statements.
7. In all cases, the burden of proof and persuasion shall be on the party filing the grievance.

The customary order of proceedings is as follows for an appeal (dismissal, suspension, demotion or reduction in force):

* All witnesses will be sworn by the court reporter prior to their testimony.

1. Opening statement by the County, followed by a similar statement by the appellant.
2. Presentation of evidence, witnesses* and arguments by the County.
3. Cross-examination by the appellant.
4. Presentation of evidence, witnesses* and arguments by the appellant.
5. Cross-examination by the County.
6. Summation by both parties, usually following the same order as in the opening statements.
7. In all cases, the burden of proof and persuasion shall be on the County.

This is the customary order. The Board may vary this order, either on its own initiative, or, in the discretion of the Board, at the request of either party.

~~Before testifying, every witness shall be required to declare that he will testify truthfully by oath or affirmation administered by a member of the Board.~~

The scope of rebuttal shall be very narrow. On rebuttal the Board shall receive only that evidence which: 1) has become relevant or important only as a direct result of evidence introduced by the opposing party, and 2) is offered for the sole purpose of explaining, refuting, contradicting, or disproving said evidence of the opposing party.

~~In hearings which involve suspensions, demotions or dismissals for cause, the burden of proof shall be on the appointing authority. In all other cases, the burden of proof shall be on the grievant. In all cases, the party with the burden of proof shall present its evidence first.~~

* All witnesses will be sworn by the court reporter prior to their testimony.

~~Unless the Board directs otherwise, each party shall be required to provide copies of each of its exhibits to: each member of the Board, the Secretary of the Board, and the opposing party. (Total: 7 copies):~~

Any member of the Board may question the parties, their representatives, or any of the witnesses during the course of the hearing. In addition, the Board reserves the right to make further inquiry and investigation and shall have access to all relevant County records.

~~The Board shall reduce its findings and decisions to writing and send copies of the same to each party:~~

A transcript of any or all of the hearing may be obtained from the court reporter. All costs associated with receipt of a transcript shall be borne by the requesting party.

Four affirmative votes shall be required for final action on any matter acted upon by the Board.

5/2/1984

Rev: 07/05

KE3424D

LANCASTER COUNTY CORRECTIONS DEPARTMENT

605 SOUTH TENTH STREET
LINCOLN, NE 68508
(402) 441-7530
FAX: 441-8946

MICHAEL THURBER, DIRECTOR

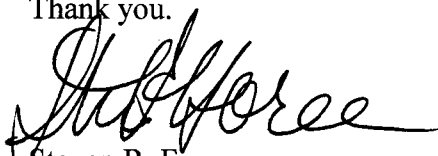
June 22, 2005

Mr. Don Taute
Director
Lincoln-Lancaster County Personnel Department
555 s. 10th Street, Suite 201
Lincoln, Ne., 68508

Dear Sir:

This is to notify that I am requesting the appeal process regarding the attached notice of discipline. Please notify me as to the date the case will be heard by the Personnel Policy Board.

Thank you.


Steven R. Foree

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ITY COUNTY PERSONNEL

2005 JUN 23 PM 2 18

LANCASTER COUNTY
EMPLOYEE SUSPENSION NOTICESteve Foree

Name

505-66-8739

Social Security No.

06-22-05

Date

Correctional Specialist I

Classification

Lancaster County Corrections

Department

This is to officially notify you that you are suspended from your position for a period of 2 working days in accordance with Lancaster County Personnel Rule 11.2(d) or in accordance with a Labor Agreement, if applicable.

Period of Suspension:	To Begin:	Date	<u>06-27-05</u>	Time	<u>10:00 am</u>
	To End:	Date	<u>06-28-05</u>	Time	<u>8:30 pm</u>
You are to return to work:		Date	<u>06-29-05</u>	Time	<u>10:00 am</u>

VIOLATION

What action or inaction on the part of the employee has given cause for the suspension: (Give complete details, including dates, witnesses, if applicable. Use additional pages, if necessary.)

On Sunday, May 1, 2005, you contacted the department to report you were unable to report to work and were calling in sick. You left messages with Brenda Fisher, Acting Program Specialist Director on Monday, May 2nd and Tuesday, May 3rd, stating you were still unable to come to work due to an injury and you were scheduling a doctor appointment in the next few days. Wednesday, May 4th, you spoke to Ms. Fisher and told her that you had twisted your back while at home and was still in a great deal of pain and was going to return to the doctor on Thursday, May 5, 2005. You further stated the doctor had ordered you to either stand or lie down, but it was not an option to sit. You remained on sick leave status through May 25, 2005 and returned to work on May 29, 2005.

It was reported to me in late May, that you had participated in an adult softball game on Friday, May 6, 2005 at Cooper Park in Lincoln, Nebraska. On June 1, 2005, I questioned you about participating in such a softball game while on sick leave. You said you did play in the softball game on May 6th, that you can play softball with a "broken foot and injured shoulder", and that your doctor was not aware of you playing that evening.

The County provides sick leave to its employees so they may be absent from work to recover from illness or injuries without loss of pay. Employees are expected to exercise good judgment and take reasonable steps to facilitate their recovery and return to work as quickly as possible. Rather than make every effort to take care of your back you chose to participate in an adult softball game. This reflects extremely poor judgment and a disregard for any responsibility you have to recover and return to work, and for the image you present to the public as a Correctional Specialist and a Lancaster County employee. This conduct places you in violation of Lancaster County Personnel Rule 11.2 (h)(4), "The employee has engaged in an action unbecoming an officer or an employee of the County which reflects on the County adversely,"

COPIES: _____EMPLOYEE _____DEPARTMENT _____PERSONNEL _____COUNTY ATTORNEY

LANCASTER COUNTY CORRECTIONS DEPARTMENT

605 SOUTH TENTH STREET
LINCOLN, NE 68508
(402) 441-7530
FAX: 441-8946

MICHAEL THURBER, DIRECTOR

CITY COUNTY PERSONNEL
2005 JUN 23 PM 2 18

June 22, 2005

Steve Foree
Correctional Specialist I
Lancaster County Dept of Corrections
605 S 10th St
Lincoln NE 68508

Dear Steve,

On Wednesday, June 21, 2005 you met with myself, and Personnel Coordinator Pat Kant to allow you the opportunity to discuss the allegations and rules violations set forth in the proposed letter of June 14, 2005.

During this meeting you provided the following information. You stated "you felt you did nothing wrong." When I asked if you had any additional comments regarding the proposed suspension, you stated "you did not." When I asked you further to provide any additional comments about the proposed discipline, you stated that "discipline is not warranted, as you did nothing wrong."

I believe you have engaged in conduct unbecoming an employee of the County which would bring discredit to Lancaster County in violation of County Personnel Rule 11.2 (h)(4), "The employee has engaged in an action unbecoming an officer or employee of the County which reflects on the County adversely." Specifically, you were only five days from a reported back injury which you stated made you totally incapacitated to walk or sit, yet you were well enough to participate in a City League softball game on May 6, 2005.

Lancaster County Department's Code of Ethics Policy 2.7 (B)(I), "Employees are expected to conduct themselves at all times, both on and off duty in a professional manner that reflects favorably on the department and County. Conduct unbecoming shall include any act that discredits the department or the employee as a member of the department or is otherwise detrimental to the operations of the department." As well as Lancaster County Rule 11.2 (h)(5), "The employee has violated any department, division, or institutional regulation or order, or failed to obey any proper direction made and given by a supervisor."

Your doctor's paperwork of May 6th states you were "unable to perform previous sitting standing task and is not physically able to encounter possible combative situations." Your doctor further stated you had "acute lower back pain, anterior anatalgia lumbar myospasm." Participating in a softball game is not the conduct of a prudent person making a sincere effort to get well and return to work. A prudent person would have stayed at home and taken reasonable steps to care for their back in order to prevent worsening the injury.

Pursuant to Lancaster County Personnel Rule 11.2 (d), "A Department Head may suspend an employee without pay for cause for a period or periods not to exceed thirty (30) working days in any twelve (12) months." I am suspending you without pay for a period of two (2) working days. This suspension will commence Monday, June 27, 2005 at 10:00 a.m. and will conclude on Tuesday, June 28, 2005 at 8:30 p.m. You are to return to duty on Wednesday, June 29, 2005 at 10:00 a.m.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Thurber", written in a cursive style.

Michael Thurber
Corrections Director

MT/lo

cc: Brenda Fisher, Acting Program Specialist II
Don Taute, Personnel Director
Thomas Fox, Deputy County Attorney
Personnel File